

JOSEPH P. RUSSONIELLO
 United States Attorney
 THOMAS M. NEWMAN (CTBN 422187)
 Assistant United States Attorney
 9th Floor Federal Building
 450 Golden Gate Avenue, Box 36055
 San Francisco, California 94102
 Telephone: (415) 436-6805
 Fax: (415) 436-6748

Attorneys for the United States of America

**IN THE UNITED STATES DISTRICT COURT FOR THE
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION**

**WACHOVIA BANK, N.A. AS TRUSTEE
 (BAYVIEW), a national banking association**

Plaintiff,

v.

**JOHN CLIFTON ELSTEAD, et. al;
 SANDRA F. ELSTEAD, also known as
 SANDRA F. WAGNER, an individual ; TITLE
 INSURANCE AND TRUST COMPANY, a
 California corporation; FIDELITY NATIONAL
 TITLE INSURANCE COMPANY, a California
 corporation; SUSAN ELSTEAD, an individual;
 LAW OFFICES OF WALKER & DURHAM,
 an entity of unknown form; THE UNITED
 STATES OF AMERICA; MBNA AMERICA
 BANK, N.A., a national banking entity;
 MEUSER COLLECTION COMPANY doing
 business as MEUSER OF CALIFORNIA, a
 California corporation; UNIVERSAL FENCES
 & SUPPLY, INC., a California corporation;
 THE CITY OF OAKLAND, a municipal entity;
 DOES 1 through 100, inclusive,**

Defendants.

Case No.: 3:07-cv-6015-SI

STIPULATION FOR REMAND

STIPULATION

1. Plaintiff commenced this action on September 17, 2007, Alameda County Superior Court, Case No.nRG07346492. Plaintiff Wachovia filed this action seeking to foreclose on real property held by Defendant Elstead.

*STIPULATION AND
 PROPOSED ORDER*
 Case No. 03:07-cv-6015-SI

1 2. The action was removed by defendant the United States of America pursuant to
2 28 U.S.C. §§ 1442(a)(1) and 1444.

3 3. Defendant, the United States has claim against the property that plaintiff seeks to
4 foreclose that is related to IRS liens filed against defendant Elstead for unpaid federal taxes. The
5 United States' interest in property that plaintiff seeks to foreclose is the sole basis for federal
6 jurisdiction, which includes the amount and priority of the IRS liens. The parties agree that the
7 remaining issues in this case, which is limited to whether plaintiff has an right to foreclose on the
8 property, arise under California state law. The parties further agree that those issues
9 predominate over the sole federal question.

10 4. Defendant Elstead further agrees that, while no judgment has been entered in
11 favor of the IRS's tax liens, he is not contesting those tax liabilities in this proceeding.

12 5. In addition, the United States agrees that the IRS liens filed against the real
13 property at issue that are related to defendant Elstead's federal tax liabilities are subordinate to
14 Wachovia's interests in the real property it seeks to foreclose.

15 6. Based on the foregoing, the parties agree that this case should be remanded the
16 Alameda County Superior Court, and any pending motion in this Court should be denied as
17 moot.

JOSEPH P. RUSSONIELLO
United States Attorney

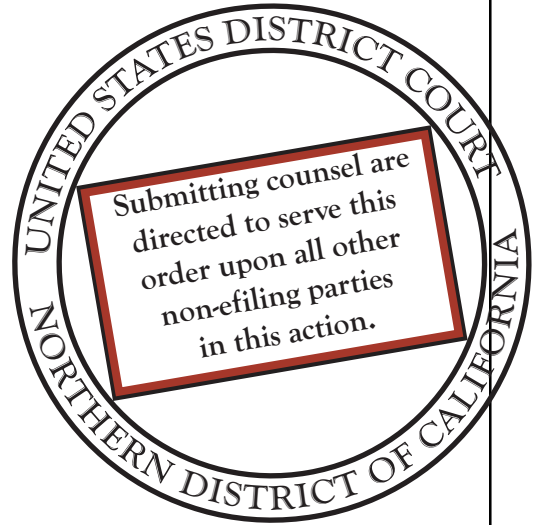
/s/ Thomas M. Newman
THOMAS M. NEWMAN
Assistant United States Attorney
Tax Division

DATED: March 31, 2008

By: /s/S. Christopher Yoo
S. CHRISTOPHER YOO
ROCIO HERRERA
Attorneys for plaintiff
WACHOVIA BANK, N.A. AS
TRUSTEE
(BAYVIEW)

DATED: April 2, 2008

By: /s/John C. Elstead
JOHN C. ELSTEAD



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Defendants.

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ORDER

Base on the parties' stipulation the Court find that the issues in this case arise predominantly under state law. A district court may decline to exercise supplemental jurisdiction where "the district court has dismissed all claims over which it has original jurisdiction." See 28 U.S.C. § 1367(c)(3); see also Bryant v. Adventist Health System/West, 289 F. 3d 1162, 1169 (9th Cir. 2002) (holding where district court grants judgment on federal claims, district court, pursuant to § 1367(c)(3), may properly decline to exercise supplemental jurisdiction over remaining state law claims). Further, a district court may decline to exercise supplemental jurisdiction over claims that "substantially predominate[] over the claim or claims over which the district court has original jurisdiction." See 28 U.S.C. § 1367(c)(2). The Court **DECLINES** to exercise supplemental jurisdiction over the remaining state law claims.

Accordingly, the above-titled action is hereby **REMANDED** to the Superior Court of

1 California, in and for the County of Alameda, and the Clerk is DIRECTED to transfer forthwith
2 the instant order, at the following address:

3 Office of the Clerk
4 Superior Court of California
5 County of Alameda
6 1225 Fallon Street
7 Oakland, CA 94612-4293

8 **IT IS SO ORDERED.**

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10 SUSAN ILLSTON
11 UNITED STATES DISTRICT COURT JUDGE
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